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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,488	06/09/2000	Dean F. Jerding	A-6600	2510

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EXAMINER	
BELIVEAU, SCOTT E	
ART UNIT	**PAPER NUMBER**
2623	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/590,488	JERDING ET AL.	
	Examiner	Art Unit	
	Scott Beliveau	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *74-95* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *74-95* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 April 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Miscellaneous

1. Please note that the examination art unit of record for this application has changed to 2623.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e). The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/138,756, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In particular, the earlier filling does not appear to provide support for claims 74 and 89 taken as a whole. UI flow cart of Page 11 does not appear to illustrate the particularly claimed steps. The box labeled 'Active VOD session' appears to most closely corresponds to the claimed 'determining if at least one current rental exists'. As illustrated the particular claimed steps associated with "determining

whether a previously established video-on-demand (VOD) session is still active" do not appear to be shown. Accordingly, it is unclear as to how the newly added claim limitation of "responsive to determining that the at least one current rental still exists and a previously established VOD session for the first VOD presentation is no longer active, establishing another active VOD session for the first VOD presentation and providing the VOD current rental screen" is supported. The claim further requires that the "current rental screen . . . [has] information on the length of time remaining on the VOD title", as disclosed in Page 6, the 'active session screen' construed as the current rental screen only displays information regarding the length of the title rented as opposed to the actual amount of time remaining in presentation. which the user has started watching. Accordingly, the application is being examined based upon its filling date or 09 June 2000.

Response to Arguments

3. Applicant's arguments with respect to claims 74-95 have been considered but are moot in view of the new ground(s) of rejection as necessitated by applicant's amendments.

With respect to applicant's arguments such that the Goode et al. reference fails to teach or suggest the limitation such that "responsive to determining that the at least once current rental still exists and the previously established VOD session for the first VOD presentation is no longer active, establishing another active VOD session for the first VOD presentation and providing the VOD current renal screen", the examiner respectfully disagrees in view of the new grounds of rejection premised on a different interpretation of Goode et al. as set forth in the rejection of record.

Drawings

4. The drawings were received on 17 April 2006. These drawings are approved.

Claim Objections

5. Claims 74 and 89 are objected to because the step of "responsive to determining that the at least one current rental still exists and the previously established VOD session for the first VOD presentation is no longer active" should be amended to read "responsive to determining that the at least one current rental still exists and responsive to determining that the previously established VOD session for the first VOD presentation is no longer active" for grammatical clarity. Appropriate correction is required.

6. Claim 81 is objected to because the phrase "unblocking the VOD presentation" lacks proper antecedence. For the purpose of art evaluation, the examiner shall presume that 'the VOD presentation' is the 'second VOD presentation' such that the claim would read "unblocking the second VOD presentation". Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 74-79 and 89-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat No. 6,166,730) in view of Dunn et al. (US Pat No. 5,721,829), and in further view of Swix (US Pat No. 6,609,253).

The Goode et al. reference discloses a video-on-demand system in which the user can rent multiple video presentations and control the playback of these video programs through playback commands (ex. play, stop, pause, etc.) (Col 2, Line 64 – Col 3, Line 5). In accordance with the provision of these services, the video session manager [106] allocates and manages bandwidth associated the provision of these programs (Col 3, Lines 17-63) as well as tracking those presentations which are still currently available for further viewing subsequent to the user stopping the presentation (Figure 11).

In consideration of claims 74 and 89, the Goode et al. reference discloses a method implemented by a "digital home communication terminal (DHCT)" [118] comprising "memory" [518/520] implicitly storing "program code" so as to control the operation of the terminal via an interactive interface such as the OnSet™ system (Col 13, Line 60 – Col 14, Line 10). Illustrative screens associated with the OnSet™ navigator are provided in the co-

pending 60/034,490 application explicitly incorporated by reference (Col 13, Line 60 – Col 14, Line 10). For example, Figure 17 of the '490 application illustrates the described 'active program list'. The claim is met as follows. A user orders a given presentation, proceeds to watch that presentation (Figure 7, Col 14, Line 55 – Col 15, Line 42) and stops/pauses the presentation (Figure 8; Col 15, Line 43 – Col 16, Line 25). Upon desiring to return to the presentation, the system "determines if at least one current rental exists" (Figure 11, Line 55 – Col 18, Line 33) and from that list allows the viewer to choose to restart the presentation (Figure 12; Col 18, Lines 34-65). Assuming that the pause/stop was for a long duration, the session manager [106] will deactivate the session associated with the video presentation in order to reallocate bandwidth to other subscribers (Col 12, Lines 12-37). Accordingly, "responsive to determining that the at least one current rental still exists and the previously established VOD session of the first VOD presentation is no longer active" since it has been terminated due to inactivity, the system necessarily "establishes another active VOD session of the first VOD presentation" as necessary in order to restart delivery the requested presentation and may further "provide the VOD current rental screen" responsive to further 'bookmarking'. In association with the continued playback, should the user pause the presentation for a short period, resume playback, and subsequently pause/stop, the system "responsive to determining that the previously established VOD session for the first presentation is still active" given that it doesn't require the reestablishment of the session, "provides a VOD current rental screen that includes a selectable option to view the first VOD presentation, the VOD current rental screen having a VOD title of the first presentation . . .

and information on the rental time duration remaining for viewing the VOD title" (Col 15, Lines 42 – Col 16, Line 26; Col 17, Line 55 – Col 18, Line 33).

The Goode et al. reference, however, is silent with respect to the aforementioned "current rental screen" further comprising "information on the length of time remaining on the VOD titles, and information on the rental time duration remaining for viewing the VOD title". In an analogous art pertaining to interactive video distribution systems, the Swix et al. reference discloses an advantageous technique for managing bandwidth in conjunction with a VOD system which includes tearing down sessions associated with extended inactivity (Col 8, Lines 16-36) and more specifically includes providing any number of graphical displays comprising "information on the length of time remaining on [a] VOD title" and "information on the rental time duration remaining for viewing the VOD title" (Swix et al.: Col 14, Lines 21-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Goode et al. such that the aforementioned "current rental screen" further comprises "information on the length of time remaining on the VOD title" and "information on the rental time duration remaining for viewing the VOD title" for the purpose of advantageously providing a means so as to limit a subscriber's ability to consume bandwidth capacity yet provides a satisfactory viewing experience that informs the user as to the status of established viewing limits (Swix et al.: Col 5, Line 59 – Col 6, Line 30).

The Goode et al. reference is also silent as to what occurs "responsive to determining that at least one current rental does not exist". In an analogous art pertaining to interactive video distribution systems, the Dunn et al. reference discloses a VOD system that "determines if at

least one current rental exists" and "responsive to determining that at least one currently rental does not exist" it "provides a list of selectable VOD titles" (Col 7, Lines 20-34). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Dunn et al. interface navigation so as to "provide a list of selectable VOD titles responsive to determining that at least one current rental does not exist" for the purpose of providing the user with a convenient means to facilitate the viewer's browsing and ordering of video content if there are no current rentals and other inherent advantages associated therewith.

Claims 75 and 90 are rejected wherein the system "receives a user input configured to select the selectable option to view the first VOD presentation" [1205] whereupon the system "provides the first VOD presentation to a user" [1215] (Goode et al.: Figure 12).

In consideration of claims 76 and 91, the Goode et al. reference discloses teaches that upstream communication signals derived from the "digital home communication terminal (DHCT)" [118] control the particular playback operations associated with the SCM for controlling the distribution of the media presentation (Col 13, Lines 54-64). The reference also teaches that the terminals may need to "retry . . . at various time intervals" based upon a random backoff interval should the particular distribution of these commands fail (Col 9, Lines 20-67). Accordingly, the claim meets the claim limitation "wherein if establishing another active VOD session fails, retrying to establish another active VOD session for the first VOD presentation at various time intervals" such should the "digital home communication terminal (DHCT)" [118] fail in attempting to setup an active session with the

SCM (ex. transmission failure of command due to message collisions), the "digital home communication terminal (DHCT)" [118] will subsequently retry at various time intervals.

In consideration of claims 77 and 92, as aforementioned, the Goode et al. reference "determines whether multiple current rentals exist" (Figure 11) and is capable of "setting up a session" in association with the playback of previously viewed current rentals on any order designated by the user (Col 18, Lines 21-33). Accordingly, the reference anticipates the particular intended use such that the system "sets up a session a most recently viewed current rental" in response to the user designation of restarting viewed programs in the order of viewing.

Claims 78 and 79 are rejected wherein the apparatus is operable to "receive a first user input configured to select a VOD title form the list of selectable VOD titles", to "provide a selectable option for renting a second VOD presentation corresponding to the VOD title selected from the list of selectable titles", and to "receive a second user input configured to select the selectable option for renting the second VOD presentation" (Goode et al.: Col 4, Line 55 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 33).

10. Claims 80-88, 94, and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat No. 6,166,730), in view of Dunn et al. (US Pat No. 5,721,829), in view of Swix (US Pat No. 6,609,253), and in further view of Casement et al. (US Pat No. 5,969,748).

In consideration of claim 80-84, the combined teachings do not particularly disclose nor preclude the usage of determining whether or not selected presentations are blocked via both parental control and purchase access codes. In an analogous art pertaining to video

distribution systems, the Casement et al. reference provides a method for renting a VOD presentation wherein "responsive to receiving the second user input, determining whether the second VOD presentation is blocked", the apparatus "prompts a user to provide a third user input identifying a first access code for unblocking the presentation", and "receives the third user input identifying the first access code" [100/102]. Subsequently to "responsive to receiving the third user input identifying the first access code" [102], the user is "prompted . . . to provide a fourth user input identifying a second access code" [106]. Presuming that both the "first" and "second access codes" are correct, the apparatus "provides the user with the VOD presentation responsive to receiving the third user input" [110] (Casement et al.: Figure 3; Col 6, Lines 30-47). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined teachings with that taught by Casement et al. for the purpose of advantageously providing a means to control access to television programs associated with both regular and on–demand programming (Casement et al.: Col 1, Lines 5-8, 26-63).

In consideration of claims 85 and 86, while Casement et al. discloses the particular usage of "key-strokes" in conjunction with the user input device (Col 3, Lines 51-65), the reference does not explicitly disclose that the entry of the "third and fourth user inputs" are provided via a plurality of key-strokes" such that the "first and second access codes each include a plurality of characters". Rather, the reference simply discloses that the passwords are entered, but does not particularly disclose how they are entered or their length. Figure 14 of the incorporated Gordon et al. (60/034,490) reference teaches the usage of a "plurality of key-strokes" in association with a password. Accordingly, it would have been obvious to one

having ordinary skill in the art at the time the invention was made to utilize the aforementioned user input device so as to enter the multi-character passwords using a "plurality of key-strokes" for the purpose of providing a means or technique by which to facilitate the entry of the "third and fourth user inputs" .

Claim 86 is rejected wherein the "first and second access codes each includes a plurality of characters" (Casement et al.: Col 7, Lines 38-40).

Claim 87 is rejected wherein the "first user input enables the VOD presentation to be unblocked" (Casement et al.: Figure 4; Col 6, Line 48 – Col 7, Line 20).

Claim 88 is rejected wherein the "second user input enables the VOD presentation enables the VOD presentation to be rented" (Casement et al.: Figure 5; Col 7, Lines 21-31).

Claim 93 is rejected wherein the "program code is further configured to provide a second VOD presentation identified in the list of selectable VOD titles responsive to receiving a first user input selecting the second VOD presentation" (Goode et al.: Col 4, Line 55 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 33), a "second user input identifying a first access code, and a third user input identifying a second access code" (Casement et al.: Figure 3; Col 6, Lines 30-47).

Claim 94 is rejected wherein the "first user input enables the VOD presentation to be unblocked" (Casement et al.: Figure 4; Col 6, Line 48 – Col 7, Line 20).

Claim 95 is rejected wherein the "second user input enables the VOD presentation enables the VOD presentation to be rented" (Casement et al.: Figure 5; Col 7, Lines 21-31).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The ISO/IEC 13818-6 standard discloses a standardized set of protocols for establishing sessions between a client and a server.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Beliveau
Examiner
Art Unit 2623

SEB
June 8, 2006